

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re Application of

Yang Peng et al.

Serial No.: 10/578,376

Filed: May 5, 2006

Atty. Docket: CN030054US1

Confirmation No.: 6602

Examiner: Gelek W. Topgyal

Group Art Unit: 2481

Title: A METHOD AND PLAYER FOR PLAYING CONTENT HAVING A PLURALITY
OF DISTINCT BRANCHES PLAYABLE ON A PLAYBACK DEVICE

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Commissioner for Patents
P.O. Box 1450
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APPEAL BRIEF

Sir:

Appellants herewith respectfully present its Brief on Appeal as follows:

REAL PARTY IN INTEREST

The real party in interest is Koninklijke Philips Electronics N.V., a corporation of The Netherlands having an office and a place of business at Groenewoudseweg 1, Eindhoven, Netherlands 5621 BA.

RELATED APPEALS AND INTERFERENCES

To the best of Appellants' knowledge and belief, there are no related appeals or interferences.

STATUS OF CLAIMS

Claims 1-20 are pending in this application. Claims 1-20 are rejected in the Final Office Action that issued February 1, 2011.

An Amendment After Final Office Action was filed on March 22, 2011 in response to the Final Office Action. The rejection was upheld, in the Advisory Action mailed on April 6, 2011. Claims 1-20 are the subject of this appeal.

STATUS OF AMENDMENTS

An Amendment After Final Office Action was submitted on March 22, 2011 in response to the Final Office Action of February 1, 2011. The Amendment After Final Action included amendments to the claims. In an Advisory Action mailed on April 6, 2011, it is indicated that the after Amendment After Final Action will be entered but the Amendment After Final action does not place the application in condition for allowance. This Appeal Brief is in response to the Final Office Action mailed on February 1, 2011, that finally rejected claims 1-20, which remain finally rejected in the Advisory Action mailed on April 6, 2011.

SUMMARY OF CLAIMED SUBJECT MATTER

The present invention, for example as claimed in claim 1, relates to a method for playing content having a story line including a plurality of distinct branches (e.g., item 11 of Figure 1, page 15, first full paragraph of the specification) on a playback device (e.g., item 20 of Figure 2, page 3, first two paragraphs of the specification), the plurality of distinct branches leading to a respective plurality of diverged endings of the content story line (e.g., segments A2-A5 and B2-B5 of Figure 1, page 1, Background of the Invention of the specification), the method comprising acts of: on the playback device: detecting a branch indication (e.g., item 11 between segments A1 and A2; between segments A2 and A3; between segments A3 and A4; between segments A4 and A5; and between segments B4 and B5 of Figure 1, page 9, first full paragraph, page 11, last paragraph and page 12 of the specification) while playing the content, the branch indication identifying a branch of the plurality of distinct branches of the content selected for playback (e.g., segments A2-A5 or B2-B5 of Figure 1 page 12, last paragraph and page 13 of the specification); and creating a bookmark corresponding to the detected branch to record relevant information of said branch indication (e.g., see page 9, last paragraph to page 10, first paragraph of the specification, page 12, the paragraph referencing Figure 4 in the specification) including which one of the plurality of distinct branches to continue for playing the content (e.g., page 18, second paragraph of the specification), wherein each branch indication of the played content has a corresponding created bookmark and a subsequent playing of the content is guided by the created bookmarks (e.g., page 12, second paragraph of the specification).

The present invention, for example as claimed in claim 4, relates to a method for playing content having a story line including a plurality of distinct branches (e.g., item 11 of Figure 1, page 15, first full paragraph of the specification) associated with an optical disc on a playback device (item 20 of Figure 2, page 3, first two paragraphs of the specification), the plurality of distinct branches leading to a respective plurality of diverged endings of the content story line (e.g., segments A2-A5 and B2-B5 of Figure 1, page 1, Background of the Invention of the specification), the method comprising acts of: on the playback device: detecting an interruption or pause during navigation of the distinct branches of the content selected for playback (e.g., item 11 between segments A1 and A2; between segments A2 and A3; between segments A3 and A4; between segments A4 and A5; and between segments B4 and B5 of Figure 1, page 9, first full paragraph, page 11, last paragraph and page 12 of the specification); and creating a bookmark corresponding to an interruption or pause of the playing to record relevant information (e.g., see page 9, last paragraph to page 10, first paragraph of the specification, page 12, the paragraph referencing Figure 4 in the specification) of the interruption point or pause point including neighboring fore-and-aft position parameters (e.g., page 10, first paragraph of the specification), wherein the bookmark identifies a branch of the plurality of distinct branches of the content selected for playback and subsequent playing of the content (e.g., page 12, second paragraph of the specification).

The present invention, for example as claimed in claim 8, relates to an optical disc player for playing content having a story line (e.g., item 20 of Figure 2, page 3, first two

paragraphs of the specification) including a plurality of distinct branches associated with an optical disc (e.g., item 11 of Figure 1, page 15, first full paragraph of the specification), the plurality of distinct branches leading to a diverged endings of the content story line (e.g., segments A2-A5 and B2-B5 of Figure 1, page 1, Background of the Invention of the specification), the optical disk player comprising: a detecting module for detecting a branch indication while playing the content (e.g., item 11 between segments A1 and A2; between segments A2 and A3; between segments A3 and A4; between segments A4 and A5; and between segments B4 and B5 of Figure 1, page 9, first full paragraph, page 11, last paragraph and page 12 of the specification), the branch indication identifying a branch of the plurality of distinct branches of the content selected for playback (e.g., segments A2-A5 or B2-B5 of Figure 1 page 12, last paragraph and page 13 of the specification); and a creating module to create at least one bookmark corresponding to the detected branch indication to record relevant information of the branch indication (e.g., see page 9, last paragraph to page 10, first paragraph of the specification, page 12, the paragraph referencing Figure 4 in the specification) including which one of the plurality of distinct branches to continue for playing the content (e.g., page 18, second paragraph of the specification), wherein each branch indication of the played content has a corresponding created bookmark, and a subsequent playing of the content is guided by the created bookmarks (e.g., page 12, second paragraph of the specification).

The present invention, for example as claimed in claim 13, relates to an optical disc player for playing content having a story line (e.g., item 20 of Figure 2, page 3, first two

paragraphs of the specification) including a plurality of distinct branches associated with an optical disc (e.g., item 11 of Figure 1, page 15, first full paragraph of the specification), the plurality of distinct branches leading to a respective plurality of diverged endings of the content story line (e.g., segments A2-A5 and B2-B5 of Figure 1, page 1, Background of the Invention of the specification), the optical disc player comprising: a detecting module for detecting an interruption or pause during navigation of the distinct branches of the content selected for playback (e.g., item 11 between segments A1 and A2; between segments A2 and A3; between segments A3 and A4; between segments A4 and A5; and between segments B4 and B5 of Figure 1, page 9, first full paragraph, page 11, last paragraph and page 12 of the specification); and a creating module for creating a bookmark for resumption of the play and to record relevant information of an interruption point or pause point (e.g., see page 9, last paragraph to page 10, first paragraph of the specification, page 12, the paragraph referencing Figure 4 in the specification) including neighboring fore-and-aft position parameters when the interruption or pause point occurs, (e.g., page 10, first paragraph of the specification) wherein the bookmark identifies a branch of the plurality of distinct branches of the content selected for playback and subsequent playing of the content (e.g., segments A2-A5 or B2-B5 of Figure 1 page 12, last paragraph and page 13 of the specification).

It should be explicitly noted that it is not the Appellants' intention that the currently claimed device and method be limited to operation within the illustrative device and method described above beyond what is required by the claim language. Further description of the

illustrative device and method is provided above indicating portions of the claims which cover the illustrative device and method merely for compliance with requirements of this appeal without intending any further interpreted limitations be read into the claims as presented.

GROUND OF REJECTION TO BE REVIEWED ON APPEAL

Whether claims 1-2, 4-5, 8-11 and 13-20 of U.S. Patent Application Serial No. 10/578,376 are obvious under 35 U.S.C. §103(a) over U.S. Patent No. 5,732,185 to Hirayama et al. ("Hirayama") in view of U.S. Patent No. 7,379,661 to Lamkin ("Lamkin").

Whether claims 3, 6-7 and 12 of U.S. Patent Application Serial No. 10/578,376 are obvious under 35 U.S.C. §103(a) over Hirayama and Lamkin in view of U.S. Patent No. 7,286,747 to Lewis ("Lewis").

ARGUMENT

Claims 1-2, 4-5, 8-11 and 13-20 are said to be obvious over Hirayama in view of Lamkin.

Appellants respectfully request the Board to address the patentability of independent claims 1, 4, 8 and 13 and further claims 2-3, 5-7, 9-12, and 14-20 as respectively depending from one of the independent claims, based on the requirements of the independent claims. This position is provided for the specific and stated purpose of simplifying the current issues on appeal. However, Appellants herein specifically reserve the right to argue and address the patentability of the dependent claims at a later date should the separately patentable subject matter of the dependent claims later become an issue. Accordingly, this limitation of the subject matter presented for appeal herein, specifically limited to discussions of the patentability of the independent claims is not intended as a waiver of Appellants' right to argue the patentability of the further claims and claim elements at that later time.

In the portion referenced on page 3 of the Final Office Action Hirayama describes a movie program having three stories, not "a story line including a plurality of distinct branches ... leading to a respective plurality of diverged endings of the content story line", as for example, recited in claim 1. FIG. 9A of Hirayama illustrates, program bars 0-6 from three stories. The first story includes story bars 0, 1, 5, and 6; the second story includes story bars 0, 2, 3 and 6; and the fourth story includes story bars 0, 1, 4, and 6. Accordingly, in Hirayama each story (of stories 1, 2 and 3), has the same ending.

In the Advisory Action, the Examiner argues that in FIG. 9A of Hirayama "at least the program story bar of "0" is common to all the "multi-story" portions of Hirayama, so therefore, the stories are related." It is undisputed that all stories start at the "program bar #0", however, the program bar #0 is not a part of any of the stories. At col. 6 lines 16-19 Hirayama describes

Then, when this program data is reproduced, the program bar #0 is reproduced first, and a menu is displayed immediately after the last frame of the program bar #0 has been reproduced. Thus, the user can select any one of the following scenes.

Therefore, the program bar #0 is not a part of any of the stories but, instead an initial scene selection menu. The Examiner further argues that "It is not clearly stated in the claim when the story actually begins and when it actually end." The Applicants respectfully disagree (see the closely following quoted claim recitation) and point out that it is clearly indicated in FIGs. 9A-9D of Hirayama that the program bar #6 is the common end of the three illustrated story lines. Therefore, Hirayama does not teach, disclose, or suggest "the plurality of distinct branches leading to a respective plurality of diverged endings of the content story line" as recited in the preambles of the claims.

Further, it is respectfully submitted that the arguments made by the Examiner in the Advisory Action are, however, moot. Even assuming arguendo, that the argument about Fig. 9A of Hirayama in Response to the Arguments on page 2 of the Advisory Action is correct, which, as shown above it is not, or the point about "attacking references individually", on page 3 of the Advisory Action, is correct, these points are moot because the Examiner admits that Hirayama does not disclose many of the elements of the claims. (See

page 3, second paragraph of the Final Office Action.) Specifically, it is undisputed, as admitted by the Examiner, that Hirayama does not disclose the acts of "the branch indication identifying a branch of the plurality of distinct branches of the content selected for playback" and "detecting a branch indication while playing the content", as for example recited in claim 1. Instead, the Final Office Action relies on Lamkin, to describe that which is admitted missing from Hirayama. However, this reliance is misplaced.

Bookmarks are not Branches

The Final Office Action relies on Lamkin, col. 21, lines 25-29, which reads as follows:

In operation, bookmark (1504) records the necessary information to return to the same point in the video playback of video (1502) by recording the title number, time position, chapter, angle, sub picture, and language.

Bookmarks are well known, they are indications to the playback device where to start the playback. Bookmarks are not branch indications. Bookmarks do not tell the playback device which branch to playback.

Angles are not Branches

The angles of Lamkin, are not defined anywhere in its specification. As best understood, because Lamkin does not disclose what is meant by the term "angle", it is guessed, since that is all that can be done with Lamkin's lack of any description related thereto, the angles are different perspective of the same scene. Therefore, regardless of the selected angle or perspective of some scenes, the story line of the content is the same. Thus, similar to Hirayama, Lamkin does not teach, describe, or suggest "the plurality of

distinct branches leading to a respective plurality of diverged endings of the content story line"; "the branch indication identifying a branch of the plurality of distinct branches of the content selected for playback"; and "detecting a branch indication while playing the content", as for example recited in claim 1. In Lamkin, even when different angles are selected, the story line converges to the same end. Accordingly, it is respectfully stressed that the different angles of Lamkin are not analogous to the "plurality of distinct branches" of the present claims. Because the branches as in the claims, are missing from Lamkin, that reference does not teach, disclose or suggest the acts of "detecting a branch indication" and "creating a bookmark corresponding to the detected branch indication", as for example recited in claim 1. Lamkin merely shows a conventional usage of bookmarks that are used to indicate where a video player was last on a singular story line.

Further, because Hirayama and Lamkin lack description of the branches and branch indications, it is respectfully submitted that they do not teach, disclose, or suggest any elements of the claims recitation of a branch indication.

It is respectfully submitted that the method of claim 1 is not anticipated or made obvious by the teachings of Hirayama in view of Lamkin. For example, Hirayama in view of Lamkin does not teach, disclose or suggest, amongst other patentable elements, (illustrative emphasis added) "playing content having a story line including a plurality of distinct branches on a playback device, the plurality of distinct branches leading to a respective plurality of diverged endings of the content story line, the method comprising acts of: on the playback device: detecting a branch indication while playing the content, the branch

indication identifying a branch of the plurality of distinct branches of the content selected for playback; and creating a bookmark corresponding to the detected branch indication to record relevant information of said branch indication including which one of the plurality of distinct branches to continue for playing the content, wherein each branch indication of the played content has a corresponding created bookmark, wherein subsequent playing of the content is guided by the created bookmarks" as recited in claim 1, and as similarly recited in claims 4, 8 and 13.

Lewis is introduced for showing elements of dependent claims and does not remedy the deficiencies of Hirayama in view of Lamkin with respect to the independent claims.

Based on the foregoing, the Appellants respectfully submit that independent claims are patentable and notice to this effect is earnestly solicited. The dependent claims respectively depend from one of the independent claims and accordingly, are allowable for at least this reason as well as for the separately patentable elements contained in each of said claims. Accordingly, separate consideration of each of the dependent claims is respectfully requested.

Claims 3, 6-7 and 12 are said to be obvious over Hirayama in view of
Lamkin in view of Lewis.

Lewis is cited for allegedly showing elements of the dependent claim yet does not cure the deficiencies in each of Hirayama and Lamkin. Accordingly, it is respectfully

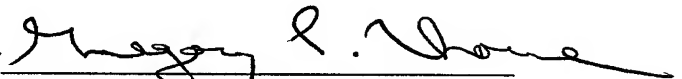
submitted that claims 3, 6-7 and 12 are allowable at least based on dependence from corresponding independent claims.

In addition, Appellants deny any statement, position, or averment of the Examiner that is not specifically addressed by the foregoing argument and response. Any rejections and/or points of argument not addressed would appear to be moot in view of the presented remarks. However, the Appellants reserve the right to submit further arguments in support of the above stated position, should that become necessary. No arguments are waived and none of the Examiner's statements are conceded.

CONCLUSION

Claims 1-20 are patentable over Hirayama in view of Lamkin and Lewis. Thus the rejection of the claims should be reversed.

Respectfully submitted,

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APPENDIX A

CLAIMS ON APPEAL

1. (Previously presented) A method for playing content having a story line including a plurality of distinct branches on a playback device, the plurality of distinct branches leading to a respective plurality of diverged endings of the content story line, the method comprising acts of:

on the playback device:

detecting a branch indication while playing the content, the branch indication identifying a branch of the plurality of distinct branches of the content selected for playback; and

creating a bookmark corresponding to the detected branch indication to record relevant information of said branch indication including which one of the plurality of distinct branches to continue for playing the content,

wherein each branch indication of the played content has a corresponding created bookmark and a subsequent playing of the content is guided by the created bookmarks.

2. (Previously presented) The method according to claim 1, further comprising acts of:

identifying a bookmark corresponding to the branch indication passed during a forward/rewind operation of the playback device; and

selecting a specific branch of the content to forward/rewind the content according to the information recorded in the identified bookmark for the navigation of the content.

3. (Previously presented) The method according to claim 1, further comprising an act of displaying the bookmark corresponding to the branch indication to the user when the branch indication is encountered during the playback of the content so as to provide the user with a choice for selecting at least one of the plurality of content branches for viewing.

4. (Previously presented) A method for playing content having a story line including a plurality of distinct branches associated with an optical disc on a playback device, the plurality of distinct branches leading to a respective plurality of diverged endings of the content story line, the method comprising acts of:

on the playback device:

detecting an interruption or pause during navigation of the distinct branches of the content selected for playback; and

creating a bookmark corresponding to an interruption or pause of the playing to record relevant information of the interruption point or pause point including neighboring fore-and-aft position parameters,

wherein the bookmark identifies a branch of the plurality of distinct branches of the content selected for playback and subsequent playing of the content.

5. (Previously presented) The method according to claim 1, wherein the information stored in the bookmark includes at least one of neighboring fore-and-aft position parameters.

6. (Previously presented) The method according to claim 4, further comprising acts of:
- resuming the playing from the interruption or pause point, and
 - displaying the information stored in the bookmark including at least one of a name or ID of the optical disc which includes the content requiring the resumption of the playing.
7. (Previously presented) The method according to claim 6, further comprising acts of:
- determining the information of the bookmark if the information stored in the bookmark includes the name or ID of the optical disc which is played; and
 - selecting a specific branch to forward/rewind using the information stored in the determined bookmark for navigation of the content.
8. (Previously presented) An optical disc player for playing content having a story line including a plurality of distinct branches associated with an optical disc, the plurality of distinct branches leading to a diverged endings of the content story line, the optical disk player comprising:
- a detecting module for detecting a branch indication while playing the content, the branch indication identifying a branch of the plurality of distinct branches of the content selected for playback; and

a creating module to create at least one bookmark corresponding to the detected branch indication to record relevant information of the branch indication including which one of the plurality of distinct branches to continue for playing the content,

wherein each branch indication of the played content has a corresponding created bookmark, and a subsequent playing of the content is guided by the created bookmarks.

9. (Previously presented) The optical disc player according to claim 8, further comprising:

a navigating module to browse the content stored in the at least one bookmark and use the content for the navigation of the content.

10. (Previously presented) The optical disc player according to claim 8, wherein the bookmark comprises information relevant to the branch indication including neighboring fore-and-aft position parameters.

11. (Previously presented) The optical disc player according to claim 8, further comprising a bookmark storage for storing the bookmarks and corresponding information.

12. (Previously presented) The optical disc player according to claim 8, wherein each bookmark of each branch comprises a back link pointing to a previous bookmark and a forward link pointing to the next bookmark.

13. (Previously presented) An optical disc player for playing content having a story line including a plurality of distinct branches associated with an optical disc, the plurality of distinct branches leading to a respective plurality of diverged endings of the content story line, the optical disc player comprising:

a detecting module for detecting an interruption or pause during navigation of the distinct branches of the content selected for playback; and

a creating module for creating a bookmark for resumption of the play and to record relevant information of an interruption point or pause point including neighboring fore-and-aft position parameters when the interruption or pause point occurs,

wherein the bookmark identifies a branch of the plurality of distinct branches of the content selected for playback and subsequent playing of the content.

14. (Previously presented) The optical disc player according to claim 13, further comprising a navigating module for browsing the bookmark and selecting a specific branch using the information of the bookmark for navigation.

15. (Previously presented) The optical disc player according to claim 13, wherein the bookmark comprises the relevant information of the interruption point or the pause point including linking information on preceding and subsequent bookmarks.

16. (Previously presented) The optical disc player according to claim 13, further comprising a bookmark storage for storing the bookmarks.

17. (Previously presented) The according to claim 1, wherein the content includes at least one predefined branch point for indicating which branch of the content to playback and the branch indication is a branch point.

18. (Previously presented) The according to claim 1, wherein the branch indication is selected from at least one of interruption and pause of the content playback.

19. (Previously presented) The optical disc player according to claim 8, wherein the content includes at least one predefined branch point for indicating which branch of the content to playback and the branch indication is a branch point.

20. (Previously presented) The optical disc player according to claim 8, wherein the branch indication is selected from at least one of interruption and pause of the content playback.

APPENDIX B

Evidence on Appeal

None

APPENDIX C

Related Proceedings of Appeal

None